Supreme Court, U.S.
FILED
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In TI

Edward H. Flint

Petitioner

v.

KATIE KING

Respondent

On Petition for Writ of Certiorari
Court of Appeals for the Sixth Circuit.

PETITION FOR WRIT OF CERTIORARI

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Pro, SE, Counsel for Petitioner

QUESTIONS PRESENTED

1-Does the ruling by the United States Supreme Court in **Stump v Sparkman 435 U.S. 349, 357 (1978)** eliminate the requirement that a judge has to obey all court rules, cannons and state laws

2- What are the limits and meanings of **"normal functions"** and **"clear absence of all jurisdiction** in granting immunity to a judge as used in the Judgment issued by the United State Supreme Court in **Stump v Sparkman 435 U.S. 349, 357 (1978)**?

3- Is violating of the Kentucky Supreme Court Rules, violating Kentucky Statutes, denying a party Due Process violating Kentucky's Code of Procedures Rules and Cannons considered to be a normal function for a judge as stated in **Stump v Sparkman 435 U.S. 349, 357 (1978)**?

4- Was the trial court correct that no cause of action exists against a judge for judicial actions except when the judge acts was in the clear absence of jurisdiction, even when the judge denied Petitioner a Due Process trial and the judge violated Kentucky Supreme Court Rules and state laws and cannons ?

5- Was the trial and appeal courts correct when they ruled, a judge has immunity on all decisions a judge makes, regardless of the circumstances, if court rules and state laws, has been violated.

6- Is Chief Judge Roberts correct when he stated **"Judges are like umpires. Umpires don't make the rules. They apply them. The role of an umpire and a judge is critical. The judge makes sure everybody plays by the rules**

IN THE SUPREME COURT OF THE UNITED STATES

NO._____

Edward H. Flint, **Petitioner**

v.

Katie King, Judge **Respondent**

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Sixth Circuit

Edward H. Flint the Petitioner prays, that a Writ of Certiorari issue to review the judgment of the Sixth Circuit Court case No. 10-5565 entered in the above case on, January 12, 2011

OPINION BELOW

The judgment of the Sixth Circuit entered on January 12, 2011

JURISDICTION

The jurisdiction of the Supreme Court is invoked under 28 USC 1254

Parties

Petitioner
Edward H. Flint,

Respondents
Katie King, Judge

TABLE OF CONTENTS

Table of cases.....iv

TABLE OF AUTHORITIES.....iv

APPENDIX.....iv

STATEMENT OF THE CASE.....1

ARGUMENT.....3

REASON FOR GRANTING THE WRIT.....5

CONCLUSION.....6

APPENDIX

1- Sixth Circuit Case 10-5018 Order denying a rehearing entered March 15, 2011..... A1

2- Sixth Circuit Case No. 10-5018 opinion Affirming District Court, entered October 13, 2010.....A 3

3- District judge's Memorandum opinion and order dated December 29, 2009 .....A 7

TABLE OF AUTHORITIES

Stump v. Sparkman 435 U.S 349, 356, 57 (1978)..... i, 3, 6,
Kentucky Supreme Court Code of Judicial Conduct SCR 4.300.....i, 1

Cannons law..... i

STATEMENT OF THE CASE

Procedural history

This action arises out of a complaint filed in Jefferson County Kentucky Circuit Court on October 2007 case No. 07-CI-10558. Petitioner was Pro, Se and was 76 years old. The case was about a flawed election for officers at a Condo Association where Petitioner lived. Petitioner knew based on evidence he had seen, the ballots had been substituted for and when the Board of Directors refuse to response to his letters asking that a meeting be called for a reelection and the Petitioner filed a suit.

Petition was Pro, Se and three judges violated Kentucky Supreme Court's rule regarding the moving and reassigning of cases. The judges by Kentucky Supreme Court Rules could not move the case without a reason, which they didn't have.

Petitioner sued the three judges in Federal District Court. The District Court granted the three judges immunity and dismissed Petitioner case. Petitioner appealed to the Court of Appeals. The Court of Appeals upheld the District Court order dismissing the appeal. Petitioner appealed to this court for Writ of certiorari and this court denied Petitioner certiorari.

Petitioner filed a different case in Jefferson County District Court and the first judge, on the first hearing denied Petitioner every thing he asked for and out of the blue for no reason,(as the tape of the hearing shows), the judge threaten to put Petitioner in jail.

The case was assigned to Judge King the respondent. Judge King refused to let Petitioner have any discovery. Judge King threatens to put Petitioner in jail, for no reason as the recorded audio CD shows. It became clear that Judge King had been talked to by other judges in the court system and no judge in Jefferson County was going to give Petitioner a fair and honest trial. Petitioner sued Judge King in Federal Court alleging her of violating his "civil rights" by "Terroristic threatening. "

Judge King would not grant Petitioner discovery. Petitioner asked Judge King to move the case out of Jefferson County and she refused. Petitioner gave the trial court an audio CD recordings and the trial court stated a judge is granted the power to declare a person in contempt and thereby to put him in jail. The trial court judge is saying that a judge can on its own declare a person in contempt, when the CD shows there was no reason for Judge King to do what she did, except that other judges had told her to get Flint, because he sued fellow judges.

Petitioner asked all four judges to let him move the case to another county and all four refused, because they did not want Flint to have a chance to win a case in any court, including Federal Court. All four judges denied Petitioner discovery.

The Federal District Court has dismissed all four of Petitioners cases against the judges. The Court of Appeals has denied Petitioner any relief. On all cases where Petitioner has sued judges, the Federal District Court dismissed all cases based on the fact that regardless of the bases for the suit, stating judges have absolute immunity. Each

Judge cited **Stump v Sparkman 435 U.S. 349, 357 (1978)**

The Court of Appeals upholds the District Courts and states that the Supreme Court 1978 ruling has not changed nor has the language in Stump v Sparkman been changed or clarified and therefore they have no choice but to grant immunity, regardless of how bad the actions by the judge was.

Arguments

Petitioner argues that the Sixth Circuit Court of Appeals hung it case based on the district court dismissal and stated that "Judges are generally entitled to immunity from personal liability for actions taken on the bench. :a judge will not be deprived of immunity because the actions he took was in error, was done maliciously or in excess of his authority; rather he will be subject to liability only when he has acted in the clear absence of all jurisdiction" *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978)

No court in Jefferson County has said one word about what rights Petitioner had to due process. Petitioner states that denying Due Process, violating Courts rules and state's laws can not be judicial actions and therefore is non-judicial.

If this court doesn't clarify the *Stump v. Sparkman* ruling there will never again be an honest judge in America. All Judges in America sooner or later will harm someone and use this case as an excuse.

There is no way the court system in America can keep judges under control from abusing the system, except for the possibility that a judge could be sued by a jury. The judge in this case as the record will show violated every issue to see

that Petitioner never received a fair trial. Judge King had pressure on her, because Petitioner trying to find justice, sued judges.

Recently the United State Senate removed a judge for violating rules and being on the take. If this court thinks the same thing is not going, then you are living in a make believe land in your mind.

This court has the future of the America justice system in their hands. By leaving the Stump v Sparkman case as is, will set off a fire storm in every court house across America to see which party has the most money to buy a judge in a case. You children, your grandchildren's future children depend on this court's action and the legend you want to leave.

Petitioner again will tell this court that there are many, many cases being handled today in our country by corrupt judges and congress can not pass a law to stop it. The only change of having an honest justice system is by this court to write the rules on how a judge must conduct them self and allow judges to be sue if it can be proven they violated the rules. This court let the pendulum swing to far when they wrote Stump v. Sparkman and this court now has a chance to frame the future of justice in America, even more that the framers of our constitution. Does any member of this court believe that our fore fathers would have let judges do as the please.

Our fore fathers could not see the future and see how judges can be so corrupt. If they could, maybe they would have set up a different justice system, because they wanted an honest system.

Our country was founded by people who were running away from what is now taking place by judges.

If the President of our country can be sued then why should anyone be exempt?

The appeals court in their ruling stated and I quote,

"Here Judge King engaged in conduct soundly within the scope of her judicial duties and within the court's jurisdiction. Contrary to Flint's argument, even if Judge King erred in finding him in contempt of court, her decision is still protected by judicial immunity because it was made within the scope of her official duties as a judge. See Stump, 435 U.S. at 356-57. Finally, although Flint argues that Stump is "bad law," it has not been overruled by the Supreme Court and we are bound by the precedent set forth therein

This court owes it to every America to frame the rules on which a judge can be sued or tell the people that a judge can not be sued under any condition.

This court has an opportunity to leave its mark on America history forever.

REASONS FOR GRANTING THE WRIT

1- This honorable body should want to see that every citizen of America is granted Due Process.

2- This court should and needs to clarify the meaning of the wording of "Clear Absence of all Jurisdiction and normal functions" as used in *Stump v. Sparkman*.

3- Only by straightening out the question of immunity for judges, which has been raging ever since the ruling was made in 1978, will true

confidence exist in the justice system in America, that the justice system is working hard to make sure every American will receive justice in the entire court system, through out America. With out total confidence in honest judges America can not stand

4- Petitioner deserves an opportunity to try his case.

5- If all judges was honest this ruling would not be needed, but like all parts of our society, there are bad eggs in every group.

CONCLUSION

1- The language in *Stump v. Sparkman* is vague, open for different interpretations and all parties in the justice system needs to know their simplified actual meanings.

2- America needs to know in order to remove any doubt. The decision was 5 to 3 with one dissenting vote when this court made its ruling in 1978.

3-Petitioner has been harmed by the lower courts interpreting. He has other cases that will come to this court unless he gets a clarification.

4- Petitioner asks this honorable body to move this issue forward with a clear interpretation.

5-Unless the court clarifies the meaning of Stump v Sparkman, immunity for judges, the issue will expand as to what a judge can do in their court. There has to be a limit of all judge's actions, at

some point in law and this court needs to make sure that all decisions are a correct decision, so everyone is playing the same game, by the same rules.

6- A clear definition gives honest judges, lawyers and average persons a better shot at equal justice.

7- Every honest ethical judge in America would welcome a clarification of the meaning of Stump v. Sparkman.

8- The trial court and the court of appeals both are defending Judge King because they know Flint sued the judges. Neither court listened to the audio CD to search for the truth. The CD proves that Flint did nothing to cause Judge King to threaten to put Flint in jail. Judge King did not give Flint Due Process. The CD is what every judge should have listened to and none did. The Federal District court and the Sixth District Court of Appeals are not interested in justice but only interest in showing they have power and will use it to crucify any person who would dare to try to find justice after suing judges. Flint begs this court to listen to the CD.

Respectfully submitted,

s/ Edward H. Flint, Pro, Se.
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Pro, Se, Counsel for Petitioner

No. 10-5565

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

EDWARD H. FLINT, **Plaintiff-Appellant**

v.

KATIE KING,JUDGE,

Defendant-Appellee

On Appeal from the United States District Court for the Western District of Kentucky

FILED: MARCH 15, 2010

Before: BATCHELDER, Chief Judge; DAUGHTREY, and GRIFFIN, Circuit Judges.

Edward H. Flint petitions the court to rehear its order of January 12, 2011, affirming a district court order dismissing his civil rights complaint.

Seeking monetary and equitable relief, Flint sued Judge Katie King of the Jefferson (County) District Court, claiming that Judge King was derelict in her duties and that she violated his constitutional rights by threatening to place him in jail during the course of a discovery hearing. Flint also alleged that Judge King exhibited bias against him and harassed him because of a prior lawsuit he had filed against three other Jefferson County Circuit Judges. A panel of this court affirmed the dismissal of Flint's lawsuit against those judges. *Flint v. Shake*, et al., No. 09-5577 (6th Cir. Dec. 30, 2009).

The District court granted Judge King's motion to dismiss, concluding that she was entitled to absolute judicial immunity because the action

underlying Flint's allegations—i.e., conducting the discovery hearing, finding Flint in contempt of court, and advising him that she would have him placed in jail if necessary to regain control of the courtroom—were all actions taken in the scope of her judicial authority and were within the court's jurisdiction.

On appeal, Flint reasserted his claims. He argued that Judge King improperly found him in contempt of court because he had not disrespected the court or shown any disobedience. Flint argued that *Stump v. Sparkman*, 435 U.S. 349 (1978), is bad law because it provides for immunity in situations were a judge should not be granted immunity. We affirmed the district court's judgment.

In support of his petition for rehearing, Flint argues that both the district court and this court have misinterpreted *Stump* and that Judge King is not entitled to immunity for violating laws and court rules.

Upon review, the petition for rehearing is denied. We did not misapprehend or overlook any point of law or fact when we issued our prior order. Fed.R. App. P. 40(a).

ENTERED BY ORDER OF THE COURT

(s) Leonard Green
Leonard Green, Clerk

A3

UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

NO. 10-5565

EDWARD H. FLINT, **Plaintiff-Appellant**

v.

KATIE KING, Judge

Defendant-Appellee

On Appeal from the United States District Court for the Western District of Kentucky

FILED January 12, 2011

Before: BATCHELDER, Chief Judge, DAUGHTREY, and GRIFFIN Circuit Judges

Edward H. Flint, proceeding pro, se, appeals from a district court judgment dismissing his civil rights complaint. This case has been referred to a panel of the court pursuant to rule 34(j) (1), Rules of the Sixth Circuit. Upon examination, this panel unanimously agrees that oral argument is not needed. Fed. R. App. P. 34(a).

Seeking monetary and equitable relief, Flint sued Judge Katie King of the Jefferson (County) District Court, claiming that Judge King was derelict in her duties and that she violated his constitutional rights be threatening to place him in jail during the course of a discovery hearing. Flint also alleged that Judge King exhibited bias against him and harassed him because of a prior lawsuit he had filed against three other Jefferson County Circuit Judges. A panel of this court affirmed the dismissal of Flint lawsuit against those judges, *Flint v Shake, et al.*, No 09-5577 (6th Cir. Dec. 30, 2009)

The District court granted Judge King's motion to dismiss, concluding that she was entitled to absolute immunity because the actions underlying Flint's allegations—i.e, conducting the discovery hearing, finding Flint in contempt of court and advising him that she would have him placed in jail if necessary to regain control of the courtroom- - were all actions taken in the scope of her judicial authority and were within the court's jurisdiction.

On appeal, Flint reasserts his claims and argues that Judge King improperly found him in contempt of court because he had not disrespected the court or shown any disobedience. He also argues that Judge King never warned him that his conduct was "out of line". Flint argues that *Stump v. Sparkman*, 435 U.S. 349 (1978), is bad law because it provides for immunity in situations were a judge should not be granted immunity.

We conclude that the district court properly dismissed Flint complaint. We review *de novo* an order dismissing a suit for failure to stat a claim upon which relief may be granted. See *Benzon v. Morgan Stanley Distrub.,Ins.*, 420 F3d 598, 605 (6th Cir.2005). In considering a motion to dismiss under Rule 12(b)(6), the court " must accept all well-pleaded factual allegations of the complaint as true and construe the complaint in the light most favorable to the plaintiff." *Benzon*, 420 F.3d at605 (citing *Inge v. Rock Fin. Corp.*, 281 F.3d 613,619 (6th Cir. 2005). [O] a claim has been stated adequately, it may be supported by showing any set of facts consistent with the allegations in the complaint." *Bell Atlantic Corp v. Twombly*, 550 550 U.S. 544,563 (2007). The complaint will survive a motion to dismiss if it "contain(s) sufficient factual matter; accept as true, to state a claim of relief that is plausible on its face. "*Ashcroft v.*

Iqbal, 129 U.S. CT. 1937, 1949 (2009) (quoting *Twombly*, 550 U.S. at 750.

Absolute judicial immunity attaches only to actions undertaken in a judicial capacity. *See Barnes v. Winchell*, 105 F. 3d 1111, 1116 (6th Cir. (1997). Whether an act is judicial defends on the nature and function of the act, not the act itself. *Id*. In examining the function normally reformed by a judge, courts have found that judicial act resoling disputes between parties who have invoked the jurisdiction of the court. *Id*.

The Supreme Court has explicitly state that a judge will not be deprived of immunity because the action he or she took was in error, was done maliciously or was done maliciously or was in excess of his or her authority. *See Stump*, 435 U.S. 356. Absolute judicial immunity is overcome only when a judge engages in non-judicial actions or when the judge's actions, though judicial in nature, are taken incomplete absence of all jurisdictions. *See Mireles v Waco*, 502 U.S. 9, 11-12. Neither of these circumstances exists here.

Here Judge King engages in conduct soundly within the scope of her judicial duties and within the court's jurisdiction. Contrary to Flint argument, even if Judge King erred in finding him in contempt of court, her decision is still protected by judicial immunity because it was made within the scope of her official duties as a judge. *See Stump*, 435 U.S. at 356-57. Finally although Flint argues that *Stump* is "bad law," it has not been overruled by the Supreme Court and we are bound by the precedent set forth therein. Hence, the district court properly concluded that Judge King was entitled to judicial immunity.

Accordingly, we affirm the district court's judgment. Rule 34 (j) (2) (c), Rules of the Sixth Circuit.

ENTERED BY ORDER OF THE COURT

(s) Leonard Green

Leonard Green, Clerk

A7

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY AT LOUISVILLE

CIVIL ACTION NO.3:09CV-779-S

EDWARD H. Flint — PLAINTIFF

v.

KATIE KING — DEFENDANT

ORDER

Edward H. Flint a pro se litigant in the Jefferson District Court saw his case assigned to Judge Katie King. Judge King held a hearing covering a number of discovery issues in that case at which she granted several of Flint's motions while denying the rest. The proceedings got a little heated and at some point Judge King allegedly told Flint she would have him thrown in jail, apparently in an attempt to regain control of her courtroom. Flint subsequently requested that Judge King recuse herself from the case and she did so. He nonetheless filed this pro se action alleging that Judge King's actions at the discovery hearing violated his "Constitutional civil rights" and constituted an act of "Terroristic threatening". Judge King moved to dismiss the case and we will sustain her motion on the grounds that she is absolutely immune from suit relating to any actions taken in her capacity as a judge.

Judges are generally entitled to immunity from personal liability for actions taken on the bench. "A judge will not be deprived of immunity because the action he took was in error, was done maliciously, or was in excess of his authority, rather, he will be subject to liability only when he

has acted in the 'clear absence of all jurisdictions." *Stump v. Sparkman*, 435 U.S. 349, 356-57 (1978) quoting Bradley V. Fisher, 80 U.S. (13.) 335, 3511 (1872. A judge is also not immunity if her actions were non-judicial in nature." Brookings V. Clark, 389 F.3d 614 (6th Cir. 2004) (quoting *Mireles v. Waco*, 502 U.S. 9, 11 (1991). (This rule and Flint's fear that judicial immunity would permit a judge to disfavored without consequence.) Everything Judge King did in Flint's case was within the scope of her office and jurisdiction. Evidentiary rulings abviously fit that bill, even if in error. A judge is granted the power to declare a person in contempt and hereby to put him in jail, so that she may maintain an orderly courtroom."[T]he power of punishment for contempt is regarded as an essential element of judicial authority. *Casteel v. Sparks* 226 S.W. 2d 533, 536 (Ky. 1950). Contempt may take the form of "contempt in the presence of the court, which involves disorderly behavior or insolent language which impairs due respect for the court's authority." Id. If Judge King threatened Flint with jail time for unruly behavior in the courtroom, she was not without jurisdiction to do so. Con immunity attaches and her motion to dismiss the case (DN 5) is hereby **GRANTED.** Accordingly, plaintiff's two motions to set a trial date (DNs 8, 9) are **DENIED.**

IT IS SO ORDERED

Charles R. Simpson III, Judge
United States District Court